

Message Text

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ARA/LA/PLC-MR MARTIN

NEA/RA - MR SEARING

----- 113997

R 061812Z AUG 74

FM SECSTATE WASHDC

TO ALL DIPLOMATIC POSTS

CINCPANT

CINCPAC HONOLULU HI

AMEMBASSY SUVA BY POUCH

AMEMBASSY ATHENS BY POUCH

AMEMBASSY ANKARA BY POUCH

AMEMBASSY NICOSIA BY POUCH

XMT AMEMBASSY ANKARA

AMEMBASSY ATHENS

AMEMBASSY BANJUL

AMEMBASSY CARACAS

AMEMBASSY NICOSIA

AMEMBASSY SUVA

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CINCLANT AND CINCPAC FOR POLADS

BEIRUT ALSO POUCH BAGHDAD

DAKAR ALSO POUCH BANJUL

FOLLOWING REPEAT CARACAS 7352 ACTION SECSTATE DATED 02 AUG 74

QUOTE

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UNCLAS CARACAS 7352

FROM US DEL LOS

PASS ALL DIPLOMATIC POSTS EXCEPT CARACAS

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: U.S. STATEMENT ON ECONOMIC ZONE

FOLLOWING IS TEXT OF STATEMENT GIVEN ON AUGUST 1, 1974
TO COMMITTEE II BY AMBASSADOR JOHN R. STEVENSON:

STATEMENT BY AMBASSADOR JOHN R. STEVENSON, SPECIAL REPRESENTATIVE OF THE PRESIDENT AND UNITED STATES REPRESENTATIVE TO THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA-COMMITTEE II- ITEM 6: THE ECONOMIC ZONE- AUGUST 1, 1974.

MR. CHAIRMAN,

1. IN PLENARY, MY DELEGATION INDICATED ITS WILLINGNESS TO SUPPORT A 200-MILE ECONOMIC ZONE AS PART OF AN OVERALL ACCEPTABLE LAW OF THE SEA TREATY. IN THIS CONNECTION, WE WOULD LIKE TO MAKE SOME PRELIMINARY COMMENTS ON THE PORTIONS OF THE NINE-POWER WORKING PAPER DEALING WITH THE ECONOMIC ZONE (DOCUMENT A/CONF.62/L.4).

2. THE ECONOMIC ZONE IS A NEW CONCEPT DESIGNED TO RECONCILE THE PRIMARY INTERESTS OF THE COASTAL STATE IN RESOURCES WITH THE PRIMARY INTERESTS OF ALL STATES IN NAVIGATION AND OTHER USES.

3. VIEWED IN THIS LIGHT, THE ECONOMIC ZONE WOULD BE THE SUM TOTAL OF THE JUDGMENTS OF THE INTERNATIONAL COMMUNITY AS TO THE MOST APPROPRIATE BALANCE BETWEEN COASTAL AND INTERNATIONAL INTERESTS. ACHIEVING THIS BALANCE PRESENTS A VERY SPECIAL PROBLEM CONCERNING OUR MODE OF WORK. IF WE ARE TO CAPTURE IN TREATY ARTICLES THE ESSENCE OF THE BALANCE, WE MUST NOT ATTEMPT TO DO IT IN A FEW GENERAL ARTICLES-- ONLY A SERIES OF CAREFULLY DRAFTED ARTICLES WILL ACCOMPLISH

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THIS DELICATE TASK.

4. MY DELEGATION WOULD WELCOME COMMENTS ON ITS PROPOSALS FOR THE ECONOMIC ZONE BASED ON THE SPECIFIC INTERESTS OF STATES AND THE INTERNATIONAL COMMUNITY. BUT WE CANNOT NEGOTIATE IN THE FACE OF CONCEPTUAL ARGUMENTS THAT ONE OR ANOTHER IDEA IS INCOMPATIBLE WITH THE "ESSENTIAL CHARACTER" OF THE ZONE. ARGUMENTS BASED ON DEDUCTIVE REASONING FROM AN

ABSTRACT CONCEPT CAN ONLY MOVE US FURTHER APART.

5. ONE OF THE MOST SERIOUS RESTRAINTS IN THE HISTORY OF THE LAW OF THE SEA ON THE EXPANSION OF COASTAL STATE JURISDICTION OVER RESOURCES HAS BEEN THE CONCERN THAT THIS JURISDICTION WOULD, WITH TIME, BECOME TERRITORIAL IN CHARACTER. IN THE SEABED COMMITTEE, THE PROPONENTS OF THE ECONOMIC ZONE ARGUED THAT IT COULD BE CONSTRUCTED WITH SUFFICIENT SAFEGUARDS TO PREVENT SUCH A RESULT. HAVING TENTATIVELY ACCEPTED THOSE ARGUMENTS HERE, WE ARE PRESENTED WITH A PROPOSAL IN DOCUMENT L.4 THAT TENDS TO CONFIRM SOME OF OUR SERIOUS MISGIVINGS. FOR US AND FOR OTHERS, THE "SPECIFIC ARTICLES" THAT THE CO-SPONSORS LEFT OUT LARGELY SPELL THE DIFFERENCE BETWEEN AN ACCEPTABLE AND UNACCEPTABLE RESULT. ACCORDINGLY, WE WOULD BE UNABLE TO EXPRESS EVEN TENTATIVE ACCEPTANCE OF THE DOCUMENT AS A BASIS OF NEGOTIATION NOW, OR IN ANY FINAL ACTION OF THIS SESSION, IF THIS MEANS EXPOSING OURSELVES TO A PROCESS OF FRUITLESS DEDUCTIVE REASONING FROM ARTICLE 12, OR WORSE STILL, A FUTURE ARGUMENT THAT A CONSENSUS ON SUCH TEXTS WAS EVIDENCE OF NEW GENERAL INTERNATIONAL LAW.

6. HAVING SAID THIS, LET ME REITERATE WITH RESPECT TO ARTICLE 12 (A) THAT WE CONTEMPLATE FULL COASTAL STATE REGULATORY JURISDICTION OVER EXPLORATION AND EXPLOITATION OF SEABED RESOURCES AND FISHING WITHIN THE ECONOMIC ZONE WITH SPECIAL TREATMENT FOR ANADROMOUS SPECIES AND FOR HIGHLY MIGRATORY SPECIES.

7. THE QUESTION OF FISHERIES' JURISDICTION, A CENTRAL ASPECT OF THE ECONOMIC ZONE, ILLUSTRATES THE DIFFICULTIES INHERENT IN A DEDUCTIVE APPROACH. MY DELEGATION SUPPORTS THE INCLUSION OF COASTAL STATE DUTIES TO ENSURE THE CONSER-

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VATION AND FULL UTILIZATION OF FISH STOCKS, UNDER COASTAL STATE LAWS AND REGULATIONS, AND, AS STATED ABOVE, SPECIAL TREATMENT FOR ANADROMOUS AND HIGHLY MIGRATORY SPECIES OF FISH. WE BELIEVE OUR PROPOSALS WILL STIMULATE FISHERIES INVESTMENT IN THE COASTAL STATE, AND THAT ADDITIONAL PROVISIONS CAN BE DISCUSSED TO THIS END. HOWEVER, WE AGREE WITH THE DISTINGUISHED OBSERVER FROM THE FOOD AND AGRICULTURE ORGANIZATION IN SUPPORTING INTERNATIONAL COOPERATION IN FISHERIES MANAGEMENT, AND WOULD ENCOURAGE STATES TO ENTER INTO APPROPRIATE TREATY AND ORGANIZATIONAL ARRANGEMENTS, BUT WE ARE NOT URGING A MANDATORY GENERAL TRANSFER OF COASTAL STATE FISHERIES MANAGEMENT JURISDICTION TO MULTILATERAL COMMISSION. WE BELIEVE THESE POINTS SHOULD BE NEGOTIATED ON THEIR MERITS, AND THAT SUCH NEGOTIATIONS WILL FACILITATE AGREEMENT ON THE ESTABLISHMENT AND EXERCISE

OF COASTAL STATE FISHERIES JURISDICTION IN THE ZONE.

8. RECOGNIZING THAT COASTAL STATE RESOURCE INTERESTS CAN BE SERIOUSLY AFFECTED BY CERTAIN OTHER ACTIVITIES, WE HAVE ALSO PROPOSED AN EXCLUSIVE COASTAL STATE RIGHT TO AUTHORIZE AND REGULATE ALL INSTALLATIONS FOR ECONOMIC PURPOSES, AND ALL DRILLING, WHETHER OR NOT SUCH INSTALLATIONS OR DRILLING ARE RELATED TO EXPLORATION AND EXPLOITATION OF RESOURCES.

9. WE SUPPORT THE INCLUSION OF ENVIRONMENTAL RIGHTS AND DUTIES WITH RESPECT TO INSTALLATIONS AND SEABED RESOURCE ACTIVITIES. WE ALSO SUPPORT SOME REVENUE-SHARING FROM MINERAL RESOURCES, AND PROVISIONS ON THE INTEGRITY OF INVESTMENTS IN THE DEVELOPMENT OF SUCH RESOURCES.

10. WE SUPPORT COMPULSORY DISPUTE SETTLEMENT PROCEDURES TO PREVENT AN ABUSE OF TREATY RIGHTS, NOT TO SECOND-GUESS THE COASTAL STATE IN EXERCISING ITS RIGHTS IN THE ECONOMIC ZONE.

11. WE RECOGNIZE THAT SPECIFIC NEGOTIATION IS REQUIRED ON THESE AND OTHER ASPECTS OF OUR PROPOSALS. WE WOULD HOPE THE COSPONSORS OF DOCUMENT L.4, IN REFERRING TO FURTHER SPECIFIC ARTICLES, AGREE THAT SUCH NEGOTIATION SHOULD BE OUR MAIN TASK.

12. THE REMAINING QUESTION CONCERNS ACTIVITIES OTHER THAN
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THOSE I HAVE DISCUSSED, SUBJECT OF COURSE TO THE PROVISIONS OF THE CONVENTION REGARDING POLLUTION AND SCIENTIFIC RESEARCH. ARTICLES 14, 15 AND 17 DO NOT MAKE IT SUFFICIENTLY CLEAR THAT ALL HIGH SEAS FREEDOMS RECOGNIZED BY THE GENERAL PRINCIPLES OF INTERNATIONAL LAW ARE PRESERVED, SUBJECT TO AND EXCEPT AS OTHERWISE PROVIDED IN THE CONVENTION. IT IS ALSO NOT SUFFICIENTLY CLEAR THAT THE ENJOYMENT OF THESE FREEDOMS IS ON AN EQUAL FOOTING WITH--NOT SUBJECT TO -- THE ENJOYMENT BY THE COASTAL STATE OF ITS RIGHTS IN THE ZONE. WE UNDERSTANDS THIS TO BE THE INTENTION OF THE ARTICLES AND TRUST THIS IS MERELY A DRAFTING PROBLEM.

13. MR. CHAIRMAN, WHILE THESE REMARKS ARE ALSO APPLICABLE TO OTHER PROPOSALS, INCLUDING THAT OF THE DELEGATION OF NIGERIA (DOCUMENT A/CONF.62/C.2/L.21), WE BELIEVE THE COMPREHENSIVE STRUCTURE OF THE NIGERIAN PROPOSAL SHOULD COMMEND ITSELF TO THE ENTIRE COMMITTEE. DESPITE SERIOUS SUBSTANTIVE PROBLEMS ON SOME POINTS, WE CAN SEE IN THAT PROPOSAL A WAY FOR YOU TO GUIDE THIS COMMITTEE TOWARD THE ACHIEVEMENT OF ITS GOALS. WE ARE ALSO ENCOURAGED BY THE REMARKS OF THE DISTINGUISHED REPRESENTATIVE OF NIGERIA ON MATTERS THAT REMAIN TO BE DEALT WITH, AND LOOK FORWARD

TO DETAILED ELABORATION OF THESE IDEAS.

14. IN CONCLUSION, LET ME EXPRESS THE HOPE THAT THE SPONSORS OF DOCUMENT L.4, L.21, AND OTHER PROPOSALS WILL BE ABLE TO ACCEPT THESE REMARKS AS CONSTRUCTIVE IN CHARACTER, AND IN THE SPIRIT OF THE FAMOUS FRENCH PHRASE, "YES, BUT..." HOWEVER, I URGE YOU, MR. CHAIRMAN AND OTHERS NOT TO UNDERESTIMATE THE CRITICAL IMPORTANCE OF THE "BUT" TO MY DELEGATION.

15. THANK YOU, MR. CHAIRMAN.
STEVENSON UNQUOTE KISSINGER

NOTE BY OC/T: POUCHED TO ABOVE ADDRESSEES.

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